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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NY Daily Newswire, LLC,

Plaintiff,

v.

StudioBinder Inc.,

Defendant.

Case No:

**COMPLAINT FOR:
(1) Copyright Infringement
under 17 U.S.C §501**

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff NY Daily Newswire, LLC (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against defendant StudioBinder Inc. (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement under the Copyright Act, 17 U.S.C §101 *et seq.*

2. Steve Sands (“*Sands*”) created a photograph of American actor Joaquin Phoenix (the “*Photograph*”) in which Plaintiff owns the rights and licenses for various uses including online and print publications.

1 photograph portfolio.

2 13. Plaintiff has obtained active and valid copyright registrations from the
3 United States Copyright Office (the “USCO”) which cover many of Plaintiff’s
4 photographs while many others are the subject of pending copyright applications.

5 14. Plaintiff’s photographs are original, creative works in which Plaintiff
6 owns protectable copyright interests.

7 15. On September 16, 2018, Sands first published the Photograph. A copy
8 of the Photograph is attached hereto as Exhibit 1.

9 16. In creating the Photograph, Sands personally selected the subject
10 matter, timing, lighting, angle, perspective, depth, lens, and camera equipment used
11 to capture the image and made each and every artistic determination necessary for
12 the creation of the work.

13 17. On October 4, 2018, the Photograph was registered by the USCO under
14 Registration No. VA 2-121-941.

15 18. Sands created the Photograph with the intention of it being used
16 commercially and for the purpose of display and/or public distribution.

17 19. Plaintiff acquired the rights in and to the Photograph by way of written
18 assignment.

19 **B. Defendant's Infringing Activity**

20 20. Defendant is the registered owner of the Website and is responsible for
21 its content.

22 21. Defendant is the operator of the Website and is responsible for its
23 content.

24 22. The Website is a key component of Defendant's popular and lucrative
25 commercial enterprise.

26 23. The Website is monetized in that it offers subscription services to the
27 public and, on information and belief, Defendant profits from these activities.
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1 24. Defendant is the registered owner of the Account and is responsible for
2 its content.

3 25. Defendant is the operator of the Account and is responsible for its
4 content.

5 26. The Account is a part of and used to advance Defendant's commercial
6 enterprise.

7 27. Upon information and belief, Defendant has not implemented adequate
8 internal policies to verify copyright ownership before content use, indicating a gross
9 negligence in legal compliance, which is essential for a company with Defendant's
10 reach, capabilities, and level of sophistication.

11 28. Upon information and belief, Defendant's internal policies, if any, are
12 either not designed to verify copyright ownership before content use or are
13 systematically ignored, indicating a willful, recurring disregard for copyright
14 compliance.

15 29. Defendant's failure to adopt or effectively enforce internal copyright
16 policies, if any, indicates *de facto* willful infringement.

17 30. On or about June 27, 2020, Defendant displayed the Photograph on the
18 Website as part of an on-line story at URL: [https://www.studiobinder.com/blog/joker-](https://www.studiobinder.com/blog/joker-costume-design-script-breakdown/)
19 [costume-design-script-breakdown/](https://www.studiobinder.com/blog/joker-costume-design-script-breakdown/) (“*Infringements 1-2*”). Copies of screengrabs of
20 the Website including the Photograph are attached hereto collectively as Exhibit 2.

21 31. The Photograph was stored locally on Defendant’s server at URL:
22 [https://s.studiobinder.com/wp-content/uploads/2020/07/Joker-Costume-Design-](https://s.studiobinder.com/wp-content/uploads/2020/07/Joker-Costume-Design-Arthur-Normal-Wardrobe.jpg)
23 [Arthur-Normal-Wardrobe.jpg](https://s.studiobinder.com/wp-content/uploads/2020/07/Joker-Costume-Design-Arthur-Normal-Wardrobe.jpg).

24 32. Further, on or about July 31, 2020, Defendant displayed the Photograph
25 on the Account as part of a social media post at URL:
26 <https://www.facebook.com/studiobinderapp/posts/3084489224937609> (“*Infringement*
27 *3*”). A copy of a screengrab of the Account including the Photograph is attached
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1 hereto collectively as Exhibit 2.

2 33. Without permission or authorization from Plaintiff, Defendant
3 volitionally copied and displayed Plaintiff's copyright protected Photograph on the
4 Website as well as the Account.

5 34. Plaintiff discovered the Infringements on April 6, 2022.

6 35. Upon information and belief, the Photograph was copied and displayed
7 by Defendant without license or permission, thereby infringing on Plaintiff's
8 copyrights in and to the Photograph (hereinafter the unauthorized uses set forth
9 above are referred to collectively as the "*Infringements*").

10 36. The Infringements include a URL ("*Uniform Resource Locator*") for a
11 fixed tangible medium of expression that was sufficiently permanent or stable to
12 permit it to be communicated for a period of more than a transitory duration and
13 therefore constitutes a specific infringement.

14 37. The Infringements are exact copies of Plaintiff's original image that
15 were directly copied and displayed by Defendant on the Website as well as the
16 Account.

17 38. Upon information and belief, Defendant takes an active and pervasive
18 role in the content posted on its Website as well as its Account, including, but not
19 limited to copying, posting, selecting, commenting on, and/or displaying images
20 including but not limited to Plaintiff's Photograph.

21 39. Upon information and belief, the Photograph was willfully and
22 volitionally posted to the Website as well as the Account by Defendant.

23 40. Upon information and belief, Defendant was aware of facts or
24 circumstances from which the determination regarding the Infringements was
25 apparent. Defendant cannot claim that it was not aware of the infringing activities,
26 including the specific Infringements which form the basis of this complaint, since
27 such a claim would amount to only willful blindness to the Infringements on the part
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1 of Defendant.

2 41. Upon information and belief, Defendant engaged in the Infringements
3 knowingly and in violation of applicable United States copyright laws.

4 42. Upon information and belief, Defendant has the legal right and ability
5 to control and limit the infringing activities on its Website as well as its Account and
6 exercised and/or had the right and ability to exercise such right.

7 43. Upon information and belief, Defendant monitors the content on its
8 Website as well as its Account.

9 44. Upon information and belief, Defendant has received a financial benefit
10 directly attributable to the Infringements.

11 45. Upon information and belief, the Infringements increased traffic to the
12 Website as well as the Account and, in turn, caused Defendant to realize an increase
13 in its business revenues and/or subscription sales.

14 46. Upon information and belief, a large number of people have viewed the
15 unlawful copies of the Photograph on the Website as well as the Account.

16 47. Upon information and belief, Defendant at all times had the ability to
17 stop the reproduction and display of Plaintiff's copyrighted material.

18 48. Defendant's use of the Photograph harmed the actual market for the
19 Photograph.

20 49. Defendant's use of the Photograph, if widespread, would harm
21 Plaintiff's potential market for the Photograph.

22 50. On June 25, 2024, Plaintiff, via counsel, served a letter seeking to
23 address the complaints contained herein concerning Defendant's infringement of
24 Plaintiff's rights-protected work.

25 51. On August 2, 2024, Plaintiff, via counsel, served a second letter seeking
26 to address the complaints contained herein concerning Defendant's infringement of
27 Plaintiff's rights-protected work.
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1 61. Upon information and belief, Defendant willfully infringed upon
2 Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, in that
3 Defendant used, published, communicated, posted, publicized, and otherwise held
4 out to the public for commercial benefit, Plaintiff's original and unique Photograph
5 without Plaintiff's consent or authority, by using it on the Website as well as the
6 Account.

7 62. As a result of Defendant's violations of Title 17 of the U.S. Code,
8 Plaintiff is entitled to an award of actual damages and disgorgement of all of
9 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504
10 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
11 statutory damages against Defendant for each infringement pursuant to 17 U.S.C. §
12 504(c).

13 63. As a result of the Defendant's violations of Title 17 of the U.S. Code,
14 the court in its discretion may allow the recovery of full costs as well as reasonable
15 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

16 64. As a result of Defendant's violations of Title 17 of the U.S. Code,
17 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of
18 Plaintiff's copyright pursuant to 17 U.S.C. § 502.

19 **JURY DEMAND**

20 65. Plaintiff hereby demands a trial of this action by jury.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff respectfully requests judgment as follows:

23 That the Court enters a judgment finding that Defendant has infringed on
24 Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 *et seq.* and
25 therefore award damages and monetary relief as follows:

- 26 a. finding that Defendant infringed Plaintiff's copyright interest in
27 and to the Photograph by copying and displaying it without a
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1 license or consent;

- 2 b. for an award of actual damages and disgorgement of all of
3 Defendant's profits attributable to the infringements as provided
4 by 17 U.S.C. § 504(b) in an amount to be proven or, in the
5 alternative, at Plaintiff's election, an award for statutory damages
6 against Defendant for each infringement pursuant to 17 U.S.C. §
7 504(c), whichever is larger;
- 8 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant
9 from any infringing use of any of Plaintiff's works;
- 10 d. for costs of litigation and reasonable attorney's fees against
11 Defendant pursuant to 17 U.S.C. § 505;
- 12 e. for pre-judgment interest as permitted by law; and
- 13 f. for any other relief the Court deems just and proper.
- 14

15 DATED: March 31, 2025

16 **SANDERS LAW GROUP**

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